

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:12-CV-240-BO

J & J SPORTS PRODUCTIONS, INC.)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
FERNANDO PALMA CARIAS, Individually)	
and formerly d/b/a FLAMINGOS BAR; and)	
FLAMINGOS BAR INC., formerly a business)	
entity d/b/a FLAMINGOS BAR,)	
)	
Defendants.)	

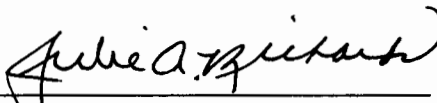
On April 30, 2012, J & J Sports Productions, Inc. (“plaintiff”) filed this action against Fernando Palma Carias, individually and formerly d/b/a Flamingos Bar and Flamingos Bar Inc., formerly a business entity d/b/a Flamingos Bar (“defendants”) [D.E. 1]. On July 8, 2012, plaintiff moved for entry of default against defendants [D.E. 7]. On August 14, 2012, plaintiff’s motion for entry of default was denied [D.E. 9]. On March 13, 2013, plaintiff filed a second motion for entry of default [D.E. 19]. For the reasons explained, plaintiff’s second motion for entry of default is denied.

Rule 4(m) of the Federal Rules of Civil Procedure requires plaintiff to serve the summons and complaint on defendants within 120 days after the complaint is filed. See Fed. R. Civ. P. 4(m). The court may extend the period to perfect service if plaintiff shows good cause. Id. According to plaintiff, defendants were served with process on November 6, 2012 [D.E. 15]. Thus, more than six months passed between the filing of the complaint and service of process. Plaintiff neither requested an extension of time to perfect service, nor otherwise showed good cause why process was not accomplished timely. As a result of plaintiff’s failure, the complaint is subject to dismissal without prejudice. Id. Accordingly, plaintiff’s second motion for entry of default is DENIED without prejudice

[D.E. 19].

Notice is now provided to plaintiff of its failure to make service within 120 days of the filing of the complaint. Rule 4(m) states that the action shall be dismissed without prejudice against defendants unless plaintiff demonstrates good cause to the court why service was late. Plaintiff must comply with this requirement within 14 days of the entry of this order. Thereafter, the record will be forwarded to the presiding judge to whom this action is assigned for a determination of whether plaintiff demonstrated good cause. Failure to respond to this notice within the time allotted will result in dismissal of defendants without prejudice.

SO ORDERED. This 12th day of April 2013.



Julie A. Richards, Clerk of Court